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September 21, 2005

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Hon. Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Atlantic Recording Corp. et al. v. Huggins
EDNY No. 05 Civ. 1534 (DGT) (RML)
BLH File No. 700000.16702

Dear Judge Levy:

I represent defendant Colin Huggins in the above-referenced case brought by the record industry. A settlement conference in this case is scheduled for October 7, 2005 at 4:00 p.m. I am writing to request that the Court direct that an officer from at least one of the plaintiffs with full settlement authority attend this conference. The reasons for this request are as follow:

Before we were retained by Mr. Huggins in mid-August, plaintiffs had made a demand upon him of \$4,500. After we were retained, I contacted Maryann Penney, Esq., of Cowan, Liebowitz & Latman, P.C. ("CLL"), plaintiffs' attorneys of record, to negotiate a settlement. She referred me to Ian Losasso, Esq. of the Kansas City firm of Shook, Hardy & Bacon L.L.P. ("SHB").

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On August 16, 2005, I spoke to Mr. Losasso and made a counter-offer of \$750. Even though I indicated that there was some flexibility, he initially said that he would not even convey our counter-offer to his clients. The next day, he called to say that our counter-offer had been rejected and that his clients were "standing firm." By letter dated August 17, 2005, I invited him to make a counter-offer and indicated that if he did so, my client would increase his offer.

On September 7th (after I returned from vacation), I called Mr. Losasso again, who told me that his clients' position had not changed and that plaintiffs would not be making a counter-offer. Later that day, I spoke to Ms. Penney of CLL who told me that plaintiffs did in fact want to reach a settlement, that she would speak to Mr. Losasso and that I would be hearing from him. We agreed that we should use the court conference scheduled for October 7, 2005 as a settlement conference and that the parties would continue settlement discussions in an attempt to reach a settlement before then.¹ By letter dated September 8, 2005, I requested court approval for this, which was granted.

A week later, I still had not heard from Mr. Losasso. On September 15th, I e-mailed Ms. Penney regarding this. She responded by forwarding my email to him.

As of September 20th, I still had not heard from Mr. Losasso. I again e-mailed Ms. Penney, who forwarded my email to him.

Later that day, Mr. Losasso finally called. He again refused to make a counter-offer or reduce plaintiffs' initial demand, and called on Mr. Huggins to increase his offer, in effect asking us to bid against ourselves since Mr. Huggins had made the last offer.

It is clear that plaintiffs and/or their counsel are not negotiating in good faith. Despite their protestations that they want to settle this case, they have not budged one cent from their initial demand. To facilitate a settlement of this matter, we therefore request that the Court require an officer from at least one of the plaintiffs with full authority to settle appear in person at the October 7th conference for good faith negotiations to reach a settlement of this matter.²

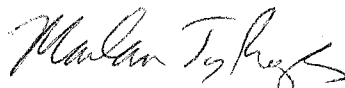
¹To facilitate this, it was necessary to extend Mr. Huggin's time to answer the complaint past the date of the October 7th conference. As with a prior request, Ms. Penney first had to get approval from SHB in Kansas City to agree to this extension..

²By motion dated September 16, 2005, plaintiffs have moved Judge Trager for admission *pro hac vice* of another attorney at SHB. We have opposed that motion because of confusion and unnecessary delays already caused by SHB attorneys in reaching a settlement of this matter. In our opposition papers to that motion, we also requested that the Court require an officer of plaintiffs to appear at the October 7th conference.

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Respectfully yours,

A handwritten signature in cursive script, appearing to read "Morlan Ty Rogers".

Morlan Ty Rogers

cc: Maryann E. Penney Esq.